

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

LEIGHTON TECHNOLOGIES LLC,

Plaintiff,

vs.

OBERTHUR CARD SYSTEMS, S.A. and
OBERTHUR CARD SYSTEMS OF
AMERICA CORPORATION,

Defendants.

OBERTHUR CARD SYSTEMS, S.A. and
OBERTHUR CARD SYSTEMS OF
AMERICA CORPORATION,

Counterclaim Plaintiffs,

vs.

LEIGHTON TECHNOLOGIES LLC,
GENERAL PATENT CORPORATION
INTERNATIONAL, GENERAL PATENT
CORPORATION, and IP HOLDINGS LLC,

Counterclaim Defendants.

Case No: 04 CV 02496 (CM) (LMS)~

**DECLARATION OF EDWARD J.
DEFRANCO SUBMITTED IN
SUPPORT OF DEFENDANTS'
MOTION TO DISMISS FOR LACK
OF STANDING**

Exhibits 14 and 16 Contain
Confidential Information
Subject To The Protective Order
In This Case

I, Edward J. DeFranco, under penalty of perjury, declare as follows:

I am a partner at Quinn Emanuel Urquhart Oliver & Hedges, LLP, and I represent Oberthur Card Systems, S.A. and Oberthur Card Systems of America Corporation in this case. I submit this Declaration in Support of Defendants' Motion to Dismiss for Lack of Standing.

1. Attached to this Declaration as Exhibit 1 is a true copy and correct copy of this Court's decision in *TM Patents, L.P. v. International Business Machines Corp.*, 121 F.Supp.2d 349 (S.D.N.Y. 2000).

2. Attached to this Declaration as Exhibit 2 is a true copy and correct copy of U.S. Patent No. 5,817,207.

3. Attached to this Declaration as Exhibit 3 is a true copy and correct copy of U.S. Patent No. 6,214,155.

4. Attached to this Declaration as Exhibit 4 is a true copy and correct copy of the Stipulation and Order filed on July 25, 2006.

5. Attached to this Declaration as Exhibit 5 is a true copy and correct copy of pages 522 and 568-69 of the October 23, 2006 deposition of Keith Leighton.

6. Attached to this Declaration as Exhibit 6 is a true copy and correct copy of a document entitled "Confidentiality Agreement" executed by Keith Leighton on February 23, 1995.

7. Attached to this Declaration as Exhibit 7 is a true copy and correct copy of pages 522 and 547-48 of the October 23, 2006 deposition of Keith Leighton.

8. Attached to this Declaration as Exhibit 8 is a true copy and correct copy of pages 522 and 619-20 of the October 23, 2006 deposition of Keith Leighton.

9. Attached to this Declaration as Exhibit 9 is a true copy and correct copy of pages 522 and 668-70 of the October 23, 2006 deposition of Keith Leighton.

10. Attached to this Declaration as Exhibit 10 is a true copy and correct copy of pages 1 and 49 of the October 10, 2005 deposition of Keith Leighton.

11. Attached to this Declaration as Exhibit 11 is a true copy and correct copy of a letter dated July 18, 1995 from Keith Leighton to Donald G. Small.

12. Attached to this Declaration as Exhibit 12 is a true copy and correct copy of a July 12, 1995 letter from Ken Thompson to Keith Leighton.

13. Attached to this Declaration as Exhibit 13 is a true copy and correct copy of pages 522 and 768-70 of the October 23, 2006 deposition of Keith Leighton.

14. Exhibit 14, a true copy and correct copy of a document entitled "Operating Agreement of Leighton Technologies, LLC," is being filed under seal because it contains information designated as "Trial Counsel's Eyes Only" pursuant to the Protective Order entered in this case on August 20, 2004.

15. Attached to this Declaration as Exhibit 15 is a true copy and correct copy of this Court's decision in *Leighton Technologies LLC v. Oberthur Card Systems, S.A.*, 358 F.Supp.2d 361 (S.D.N.Y. 2005).

16. Attached to this Declaration as Exhibit 16, a true copy and correct copy of a document entitled "Assignment" and numbered G01279-81, is being filed under seal because it contains information designated as "Trial Counsel's Eyes Only" pursuant to the Protective Order entered in this case on August 20, 2004.

17. Attached to this Declaration as Exhibit 17 is a true copy and correct copy of the resume of Keith Leighton.

18. Attached to this Declaration as Exhibit 18 is a true copy and correct copy of pages 1 and 72-74 of the May 4, 2006 deposition of Ken Thompson.

19. Attached to this Declaration as Exhibit 19 is a true copy and correct copy of the Declaration of Keith R. Leighton dated December 6, 2005.

20. Attached to this Declaration as Exhibit 20 is a true copy and correct copy of pages 1, 69 and 93-94 of the February 3, 2006 deposition of Jean-Marc DelBecq.

21. Attached to this Declaration as Exhibit 21 is a true copy and correct copy of pages 1 and 52-54 of the May 4, 2006 deposition of Ken Thompson.

22. Attached to this Declaration as Exhibit 22 is a true copy and correct copy of a document produced in this case bearing production numbers L0691-92.

23. Attached to this Declaration as Exhibit 23 is a true copy and correct copy of pages 522 and 571-72 of the October 23, 2006 deposition of Keith Leighton.

24. Attached to this Declaration as Exhibit 24 is a true copy and correct copy of pages 1 and 153 of the October 10, 2005 deposition of Keith R. Leighton.

25. Attached to this Declaration as Exhibit 25 is a true copy and correct copy of a letter dated February 22, 1995 from Ken Thompson to Keith Leighton.

26. Attached to this Declaration as Exhibit 26 is a true copy and correct copy of selected pages of Form 10-K for Motorola, Inc. dated December 31, 1994.

27. Attached to this Declaration as Exhibit 27 is a true copy and correct copy of a document produced in this case bearing production numbers L06581-84 labeled "Purchase Order."

28. Attached to this Declaration as Exhibit 28 is a true copy and correct copy of a letter dated March 20, 1995 from Keith Leighton to Ken Thompson.

29. Attached to this Declaration as Exhibit 29 is a true copy and correct copy of a document produced in this case bearing production number L06516 labeled "Deliverables Attachment Enclosed."

30. Attached to this Declaration as Exhibit 30 is a true copy and correct copy of pages 1 and 146 of the October 10, 2005 deposition of Keith R. Leighton.

31. Attached to this Declaration as Exhibit 31 is a true copy and correct copy of pages 522 and 710-712 of the October 23, 2006 deposition of Keith Leighton.

32. Attached to this Declaration as Exhibit 32 is a true copy and correct copy of a document entitled "Keith Leighton - Motorola, Indala."

33. Attached to this Declaration as Exhibit 33 is a true copy and correct copy of pages 522 and 587-88 of the October 23, 2006 deposition of Keith Leighton.

34. Attached to this Declaration as Exhibit 34 is a true copy and correct copy of pages 1 and 52-58 of the May 4, 2006 deposition of Ken Thompson.

35. Attached to this Declaration as Exhibit 35 is a true copy and correct copy of pages 1 and 93-96 of the February 3, 2006 deposition of Jean-Marc Delbecq.

36. Attached to this Declaration as Exhibit 36 is a true copy and correct copy of pages 522 and 554-555 of the May 4, 2006 deposition of Ken Thompson.

37. Attached to this Declaration as Exhibit 37 is a true copy and correct copy of pages 1 and 31 of the October 10, 2006 deposition of Keith R. Leighton.

38. Attached to this Declaration as Exhibit 38 is a true copy and correct copy of pages 522 and 619-23 of the October 23, 2006 deposition of Keith Leighton.

39. Attached to this Declaration as Exhibit 39 is a true copy and correct copy of Exhibits C to the October 23, 2006 deposition of Keith Leighton.

40. Attached to this Declaration as Exhibit 40 is a true copy and correct copy of pages 522 and 648-53 of the October 23, 2006 deposition of Keith Leighton.

41. Attached to this Declaration as Exhibit 41 is a true copy and correct copy of pages 522 and 679-84 October 23, 2006 deposition of Keith Leighton.

42. Attached to this Declaration as Exhibit 42 is a true copy and correct copy of pages 1 and 153-54 of the October 10, 2005 deposition of Keith R. Leighton.

43. Attached to this Declaration as Exhibit 43 is a true copy and correct copy of pages 522 and 598-99 of the October 23, 2006 deposition of Keith Leighton.

44. Attached to this Declaration as Exhibit 44 is a true copy and correct copy of pages 522 and 684 of the October 23, 2006 deposition of Keith Leighton.

45. Attached to this Declaration as Exhibit 45 is a true copy and correct copy of Exhibit 112 from the October 10, 2005 deposition of Keith Leighton.

46. Attached to this Declaration as Exhibit 46 is a true copy and correct copy of pages 151 and 232-33 of the March 22, 2006 deposition of Jean-Marc Delbecq.

47. Attached to this Declaration as Exhibit 47 is a true copy and correct copy of pages 1 and 102-103 of the October 10, 2005 deposition of Keith R. Leighton.

48. Attached to this Declaration as Exhibit 48 is a true copy and correct copy of pages 151 and 240-241 of the March 22, 2006 deposition of Keith Leighton.

49. Attached to this Declaration as Exhibit 49 is a true copy and correct copy of pages 1 and 105-06 of the October 10, 2005 deposition of Keith R. Leighton.

50. Attached to this Declaration as Exhibit 50 is a true copy and correct copy of pages 1 and 116-18 of the May 4, 2006 deposition of Ken Thompson.

51. Attached to this Declaration as Exhibit 51 is a true copy and correct copy of pages 151, 203-204, and 218-220 of the March 22, 2006 deposition of Jean-Marc Delbecq.

52. Attached to this Declaration as Exhibit 52 is a true copy and correct copy of pages 1, 29-33 and 44 of the May 4, 2006 deposition of Ken Thompson.

53. Attached to this Declaration as Exhibit 53 is a true copy and correct copy of pages 1 and 141-47 of the October 10, 2005 deposition of Keith R. Leighton.

54. Attached to this Declaration as Exhibit 54 is a true copy and correct copy of pages 1 and 127-28 of the October 10, 2005 deposition of Keith R. Leighton.

55. Attached to this Declaration as Exhibit 55 is a true copy and correct copy of pages 522 and 552 of the October 23, 2006 deposition of Keith Leighton.

56. Attached to this Declaration as Exhibit 56 is a true copy and correct copy of a document produced in this case bearing production number L06602.

57. Attached to this Declaration as Exhibit 57 is a true copy and correct copy of document produced in this case bearing production number L06618.

58. Attached to this Declaration as Exhibit 58 is a true copy and correct copy of a letter from Keith Leighton to Ken Thompson dated May 19, 1995.

59. Attached to this Declaration as Exhibit 59 is a true copy and correct copy of Exhibit 116 to the October 10, 2005 deposition of Keith Leighton.

60. Attached to this Declaration as Exhibit 60 is a true copy and correct copy of pages 151 and 230-31 of the March 22, 2006 deposition of Jean-Marc Delbecq.

61. Attached to this Declaration as Exhibit 61 is a true copy and correct copy of a letter dated July 17, 1995 from Keith Leighton to Plastag Corporation.

62. Attached to this Declaration as Exhibit 62 is a true copy and correct copy of Provisional Patent Application No. 60/005,685.

63. Attached to this Declaration as Exhibit 63 is a true copy and correct copy of pages 522 and 721-23 of the October 23, 2006 deposition of Keith Leighton.

64. Attached to this Declaration as Exhibit 64 is a true copy and correct copy of a memo from Keith Leighton to Matt Winter dated October 22, 1999.

65. Attached to this Declaration as Exhibit 65 is a true copy and correct copy of a January 8, 2002 letter from Gary Cunningham to Keith R. Leighton.

66. Attached to this Declaration as Exhibit 66 is a true copy and correct copy of pages 522 and 529 of the October 23, 2006 deposition of Keith Leighton.

67. Attached to this Declaration as Exhibit 67 is a true copy and correct copy of pages 522 and 648-53 of the October 23, 2006 deposition of Keith Leighton.

68. Attached to this Declaration as Exhibit 68 is a true copy and correct copy of pages 1 and 147 of the October 10, 2005 deposition of Keith R. Leighton.

69. Attached to this Declaration as Exhibit 69 is a true copy and correct copy of Exhibit 118 to the October 10, 2005 deposition of Keith Leighton.

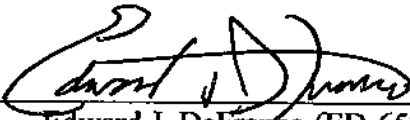
70. Attached to this Declaration as Exhibit 70 is a true copy and correct copy of a letter dated February 13, 1997 from Keith Leighton to Grace O'Malley.

71. Attached to this Declaration as Exhibit 71 is a true copy and correct copy of pages 522 and 726-27 of the October 23, 2006 deposition of Keith Leighton.

72. Attached to this Declaration as Exhibit 72 is a true copy and correct copy of pages 1, 8 and 17 of the October 10, 2005 deposition of Keith Leighton.

I swear under penalty of perjury that the foregoing is true and correct.

Dated: November 29, 2006


Edward J. DeFranco (ED-6524)

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants, if any, on this 29th day of November, 2006.

/s/ Edward J. DeFranco (ED-6524)